

Local Review of Energy Facilities – A Guide for Governmental Units, Utilities, and Developers

The Minnesota Public Utilities Commission (Commission) has responsibility and authority for the siting and routing of energy facilities in Minnesota, including power plants, transmission lines, wind farms, and pipelines. For certain eligible projects, local review and permitting is possible (Minn. Stat. § [216E.05](#)). For these projects, a utility (or developer) may apply to a local unit of government instead of the Commission for a permit to build the project.

Minnesota Rule [7850.5300](#) provides the procedural requirements that must be followed by local units of governments (LGUs) and by utilities/developers for the local review option. These requirements should be reviewed before initiating a local review process.

Applicant Responsibilities

The utility/developer (applicant) considering local review should first ensure that the project meets the eligibility requirements of Minn. Stat. 216E.05. Second, the applicant should discuss, with the applicable LGU(s), the environmental review process required by Minn. Rule 7850.5300 and the permits that will be required for the project.

The applicant must, within ten days of applying to an LGU for a permit, notify the Commission of their intent to seek local review for the proposed project. The notice should include: (1) a complete description of the project, (2) a project map, (3) the LGU that will be conducting the environmental review for the project, (4) the LGU(s) that will need to issue a permit for the project, and (5) contact information for the applicant and LGU(s). The notice should be electronically filed through the Commission's eDockets system, <https://www.edockets.state.mn.us/EFiling>. Upon filing, the project will be assigned a docket number, which will be used to reference all future documents related to the project.

The applicant must also mail (by post or email) notice to the Commission's general notification list. This is a list of persons who have expressed an interest in local review projects. The list is available by contacting Office of Energy Security, Energy Facility Permitting (OES EFP) staff. OES EFP staff acts as technical staff to the Commission and ensures compliance with local review procedural requirements. OES EFP staff contacts are listed on the Commission's [energy facility permitting website](#). The staff person for local review projects is Ray Kirsch, 651-296-7588, raymond.kirsch@state.mn.us.

The notice to the general notification list, with an accompanying affidavit of service, should be electronically filed into the eDockets system (eFiled).

LGU Responsibilities

A local unit of government (LGU) that accepts a local review project¹, must conduct an environmental review of the project before making a permit decision. This review requires the preparation of an environmental assessment (EA). An EA is an environmental review document provided for by the Power Plant Siting Act; it is not an EAW (see Minn. Rule [7850.3700](#)). The environmental review process requires: (1) an opportunity for the public to develop the scope of the EA, and (2) notice in the EQB Monitor when the EA is completed and how persons may view the EA. An LGU may not make a permit

¹ An LGU may request that the Commission assume jurisdiction over a project by making a request to the Commission within 60 days of the permit application by the utility/developer, Minn. Rules 7850.5300, Subp. 4.

decision until citizens have had a chance to review the EA (at least ten days after the EQB Monitor notice).

To ensure that citizens are aware of the proposed project and how they can participate in scoping the EA, the LGU should develop and use a mailing list (or other notice list) that: (1) includes potentially affected landowners/citizens, and (2) is a list that can be amended by citizen request. The LGU which leads the environmental review process must provide a copy of the EA to the Commission when completed. The EA should be electronically filed. An LGU does not need to submit the permit that it issues for the project to the Commission.

eFiled Documents

Based on Minnesota Rule 7850.5300 and the above discussion of applicant and LGU responsibilities, the documents that should be eFiled for a local review project include:

- (1) Applicant's notice to the Commission
- (2) Applicant's notice to the general notification list with affidavit of service
- (3) Notice in the EQB Monitor of the availability of the environmental assessment
- (4) The environmental assessment for the project

Assistance from OES EFP Staff

After the applicant provides notice to the Commission and to the general notification list, OES EFP staff will send a letter to the applicant and applicable LGU(s) (1) affirming that the project is eligible for local review, (2) recognizing one LGU as responsible for the environmental review of the project, and (3) noting those LGUs which must issue a permit or approval for the project.

OES EFP staff is available to assist applicants and LGUs with questions concerning the local review process. Additionally, applicants and LGUs can review previous local review projects on the Commission's energy facility permitting website, see [Local Review](#).

Frequently Asked Questions

- (1) *What if a proposed project affects several LGUs, e.g., County A, County B, and City C?*

Each LGU will likely have a specific permit which is required for the project. For example, County A and County B may need to issue a conditional use permit; City C may need to issue a facility permit. However, there is only one environmental review process for the project; one EA is developed. The LGUs affected must agree on the LGU that will lead the environmental review process. This LGU will create the EA. All of the LGUs will then use the EA in making their permitting decisions. Thus, by agreement, County A could develop the EA for the project. County A, County B, and City C would all use this EA to make their respective permitting decisions.

- (2) *Can an applicant email notice to those persons on the general notification list that have provided email addresses?*

Yes, notice can be provided by email. The State of Minnesota provides notice by regular mail and solicits email addresses only for backup contact information. However, applicants can provide notice by a combination of email and regular mail. If an email address bounces, a regular mail address should be used.